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NO. 0803 P. 13

DOCKET NO. 2003.07.012.WT0
U.S. SERIAL NO. 10/600,056
PATENT

REMARKS

Claims 1-30 were originally filed in the present application.

Claims 1-30 are pending in the present application.

Claims 1-30 were rejected in the June 1, 2007, Office Action.

No claims have been allowed.

No claims are amended herein

Claims 1-30 remain in the present application.

The Applicant respectfully requests reconsideration of Claims 1-30 in light of the following arguments, which the Applicant makes in order to more particularly define the issues for appeal.

In Sections 4 and 5 of the June 1, 2007, Office Action, the Examiner rejected Claims 1, 2, 11, 12, 21, 22, 26 and 27 under 35 U.S.C. §102(e) as being anticipated by U. S. Patent No. 6,687,901 to *Imamatsu*. (hereafter, simply "*Imamatsu*"). The Applicant respectfully traverses the rejection.

Independent Claim 1 recites a wireless communication device capable of downloading a software update file from a wireless network, the device including a main processor that creates a block of replacement code in random access memory and re-programs a target sector of non-volatile memory by storing the block of replacement code into the target sector of non-volatile memory. The Applicant respectfully submits that *Imamatsu* does not describe such a wireless communication device.

In response to the Applicant's arguments filed March 9, 2007, the Examiner states that *Imamatsu* "explicitly teaches storing (i.e., creating) the address of the latest version-management

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information/transmission block (i.e., replacement code from said downloaded software update file) in the work area 45 of RAM 34 (see at least col. 7:33-40)." *Office Action mailed June 1, 2007, page 3, lines 1-4.* The Examiner is correct that Imamatsu describes storing the address of the latest version-management information in RAM. *See Imamatsu, col. 7, lines 32-35.* However, the information stored in RAM is an address of data, not the data itself. Imamatsu describes storing in RAM a pointer to data stored in the version management domain 42 of flash ROM 33.

Furthermore, the version-management information whose address is stored in RAM is not, itself, replacement code. Instead, the version-management information also stores addresses, rather than data. A piece of version-management information includes a sector address of control software 43 to be updated and a sector buffer in download buffer 44 that stores the software for updating in a control software sector. *See Imamatsu, col. 8, lines 12-16.* The download buffer 44 is a portion of flash ROM 33.

The passages relied upon by the Examiner in the rejection of Claim 1 (column 6, lines 1-6; column 7, line 32, through column 8, line 32; and column 15, lines 34-45) are consistent with the teaching of Imamatsu described above. Imamatsu describes storing control software, update software and version-management information in flash ROM and storing in RAM only information about the progress of an update download, so that the download may be resumed if interrupted. *See Imamatsu, col. 15, lines 40-42.* As such, the Examiner has not shown that Imamatsu teaches each and every limitation of the invention as recited in Claim 1.

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For these reasons, independent Claim 1 is patentable over the Imamatsu reference. Independent Claims 11, 21 and 26 recite analogous limitations to the novel and non-obvious limitations of Claim 1 and, therefore, also are patentable over Imamatsu. Claims 2, 12, 22 and 27 depend from Claims 1, 11, 21 and 26, respectively, and include all the limitations of their respective base claims. Therefore, Claims 2, 12, 22 and 27 also are patentable over Imamatsu.

In Sections 6 and 7 of the June 1, 2007, Office Action, the Examiner rejected Claims 3-10, 13-20, 23-25 and 28-30 under 35 U.S.C. §103(a) as being unpatentable over the Imamatsu reference in view of U. S. Patent No. 6,928,579 to *Äijä*, (hereinafter "*Äijä* "). The Applicant respectfully traverses the rejection.

Claims 3-10 depend from Claim 1 and include all the limitations of independent Claim 1. As argued with regard to the § 102 rejection of Claim 1, Imamatsu fails to describe creating replacement code in random access memory (RAM) and reprogramming target code in non-volatile memory by copying the replacement code from RAM onto the target code in non-volatile memory, as recited in Claim 1. The Applicants respectfully submit that *Äijä* does nothing to overcome this shortcoming of Imamatsu. Therefore, the combination of Imamatsu and *Äijä* fails to teach or suggest all the limitations of Claims 3-10 and Claims 3-10 are therefore patentable over Imamatsu, *Äijä* and the combination of Imamatsu and *Äijä*.

Furthermore, Claims 13-20, 23-25, 28-30 depend from independent Claims 11, 21 and 26, respectively, and include all the limitations of their respective base claims. As such, Claims 13-20, 23-25, 28-30 are patentable over Imamatsu, *Äijä* and the combination of Imamatsu and *Äijä*.

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The Applicant also disagrees with the Examiner's rejections of Claims 1-30 based on additional misdescriptions and/or misapplications of the Imamatsu and Äijä references to at least some of Claims 1-30. However, the Applicant's arguments regarding those other shortcomings of the Imamatsu and Äijä references are moot in view of the Claim 1 arguments above. The Applicant reserves the right to dispute in future Office Action responses the appropriateness and the applications of the Imamatsu and Äijä references to the claims of the present application, including the right to dispute assertions made by the Examiner in the June 1, 2007, Office Action.

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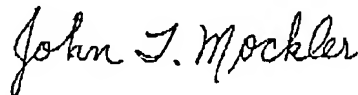
SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of the pending claims and that this application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at jmockler@munckbutrus.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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